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IN THE

Supreme Court of the United States

OCTOBER TERM, 1990

No. 90-1090

IMMIGRATION AND NATURALIZATION SERVICE, *et al.*,
Petitioners,

v.

NATIONAL CENTER FOR IMMIGRANTS' RIGHTS, *et al.*,
Respondents.

On Writ of Certiorari to the United States
Court of Appeals for the Ninth Circuit

BRIEF OF THE INTERNATIONAL HUMAN RIGHTS LAW GROUP AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENTS

INTEREST OF AMICUS CURIAE

The International Human Rights Law Group ("IHRLG") is a non-profit organization that seeks to promote the observance of international human rights. Founded in 1978, and incorporated in the District of Columbia, the IHRLG provides legal assistance and information in the field of international human rights law and has consultative status with the Economic and Social Council of the United Nations. In lawsuits raising questions of international human rights, the IHRLG provides legal assistance largely through attorneys working on a *pro bono* basis.

In this brief, the IHRLG addresses the issue of whether the right to be free of governmental prohibition against employment – a right violated by the "no-work" condition imposed by the INS regulations at issue – is a principle of customary international law incorporated into the federal law of the United States.

SUMMARY OF ARGUMENT

The right to work is a recognized norm of customary international law. It is embodied in the *Universal Declaration of Human Rights*, the *American Declaration of the Rights and Duties of Man*, the *European Social Charter*, and several other international agreements, conventions, and declarations. Over 150 nations have become parties to instruments that recognize the right to work.

Customary international law is part of the law of the United States. The Court is obligated to adjudicate questions of international law when they are duly presented to it.

The INS relies upon the Immigration and Nationality Act (INA) and the Immigration Reform and Control Act (IRCA) for the authority underlying its regulation imposing "no-work" conditions on alien appearance and delivery bonds. The INA and the IRCA, however, do not explicitly authorize no-work conditions. In keeping with traditional tenets of statutory construction, the Court must make every effort to interpret the INA and the IRCA so as not to conflict with norms of international law. The INS no-work condition violates the internationally recognized right to work by preventing detained aliens from seeking employment after they have been released on bond, leaving them in the dilemma of living without a job or returning to detention.

Therefore, to construe the statutes consistently with international law, the Court must affirm the court of appeals' decision that the statutes do not authorize the Attorney General to impose no-work conditions on alien appearance and delivery bonds.

ARGUMENT

I. CUSTOMARY INTERNATIONAL LAW IS PART OF THE LAW OF THE UNITED STATES, AND, WHERE POSSIBLE, STATUTES MUST BE CONSTRUED CONSISTENTLY WITH IT.

International law is part of the law of the United States. *The Paquete Habana*, 175 U.S. 677, 700 (1900).[1] It has the status of federal common law.[2] Customary international law, or the "law of nations," was historically part of the law of England and thus part of the law of the American colonies.[3] Today, with United States independence, "[c]ustomary international law, like other federal law, is part of the 'law . . . of the United States.'"[4]

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[1] "International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination." *Id.* at 700. *See also The Nereide*, 13 U.S. (9 Cranch) 388, 423 (1815) ("the Court is bound by the law of nations which is a part of the law of the land").

[2] *Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774, 810-11 (D.C. Cir. 1984) (Bork, J., concurring), *cert. denied*, 470 U.S. 1003 (1985). *But see* Henkin, *The Constitution and United States Sovereignty: A Century of Chinese Exclusion and its Progeny*, 100 HARV. L. REV. 853, 870-78 (1987) (arguing that customary international law is superior to federal common law in that it is not superseded by subsequent legislation).

[3] RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES (hereinafter "RESTATEMENT"), Chapter Two Introductory Note, p. 40.

[4] RESTATEMENT § 111 and Comment e.

The Court has used principles of conventional and customary international law to inform American legal standards in a variety of situations. In striking down California's Alien Land Law, as applied, on constitutional grounds in *Oyama v. California*, 332 U.S. 633 (1948), four Justices joined opinions which cited the statute's inconsistency with the United Nations Charter as among the reasons for its invalidation. Justice Murphy noted that the law's "inconsistency with [Article 55 of] the Charter, which has been duly ratified and adopted by the United States, is but one more reason why the statute must be condemned."[5] Similarly, the Court has used the *Universal Declaration of Human Rights* to give content to the due process clause, *Zemel v. Rusk*, 381 U.S. 1, 14 n.13 (1965) (upholding restrictions on travel to Cuba); to demonstrate the "drastic consequences of statelessness," *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 161 n.16 (1963) (holding unconstitutional statutes stripping citizenship of Americans remaining outside the country during time of war); and to support the upholding of a state "right-to-work" amendment, *American Federation of Labor v. American Sash & Door Co.*, 335 U.S. 538, 549 n.5 (1949) (Frankfurter, J., concurring) (citing principle that "[n]o one may be compelled to belong to an association").

A. International Agreements Constitute And Contribute to Customary International Law.

Customary international law is ascertained from the "general usage and practice of nations."[6] *United States v. Smith*, 18 U.S. (5 Wheat.) 153, 160 (1820). One source of that usage and practice is nations' own stated commitments, as embodied in international accords. International agreements constitute the

[5] *Id.* at 673 (Murphy, J. concurring). The statute forbade aliens ineligible for citizenship from acquiring, owning, occupying, leasing or transferring agricultural land.

[6] *See also The Paquete Habana*, 175 U.S. at 700 (international law found in "the customs and usages of civilized nations").

"practice of states" and contribute to customary international law.[7] For example, a multilateral agreement may become part of customary international law where it "is designed for adherence by states generally, is widely accepted, and is not rejected by a significant number of important states."[8]

As shown in Section II of this brief, the right to work is embodied in at least nine international accords. Each of these instruments was designed for adherence by states generally (or for states generally within a specific geographic region); each has been widely accepted; and, of the many reservations and exceptions registered by parties to these agreements, none has dealt with the right to work.

It is the role of courts to "ascertain[] and administer[]" international law "as often as questions of right depending upon it are duly presented for their determination." *The Paquete Habana*, 175 U.S. at 700. Therefore, it lies within the Court's duty to determine those relevant principles that have achieved sufficient consensus among nations to be part of customary international law. *The Paquete Habana* illustrates the process. Searching legal history and the writings of jurists and commentators, the Court determined that a principle of common usage and practice among nations – the neutrality of coastal fishing vessels during war – had achieved the status of international law. More recently, the Second Circuit conducted a similar review in determining that the international consensus against the practice of torture has developed to the point that freedom from torture is now a right, the violation of which may be

[7] RESTATEMENT § 102, Comment i.

[8] *Id.*

remedied under the Alien Tort Statute. *Filartiga v. Pena-Irala*, 630 F.2d 876 (2d Cir. 1980).[9]

B. Where Possible, Statutes Must be Construed Consistently With Customary International Law.

It is a basic principle of statutory construction that "an act of congress ought never to be construed to violate the law of nations, if any other possible construction remains." *Murray v. The Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64, 118 (1804) (Marshall, C.J.).[10] Recently the Court has reaffirmed the continuing validity of the rule in *The Charming Betsy* as a strong presumption against construing statutes in a way that would violate principles of international law. *Weinberger v. Rossi*, 456 U.S. 25 (1982) (stating it would require an "affirmative expression of congressional intent to abrogate the United States' international obligations").

II. THE RIGHT TO WORK IS A HUMAN RIGHTS NORM OF CUSTOMARY INTERNATIONAL LAW.

The right to work is recognized as a basic human right in international law. It is embodied in numerous international agreements and declarations, representing a consensus among

[9] The court in *Filartiga* found that the international prohibition against torture sustained a cause of action under the Alien Tort Statute for a foreign national living in the United States against an alleged tortfeasor. *See also Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774, 777 (D.C. Cir. 1984) (Edwards, J., concurring) (norms of international law develop over time); *cert. denied*, 470 U.S. 1003 (1985).

[10] *See also Talbot v. Seeman*, 5 U.S. (1 Cranch) 1, 43 (1801) ("the laws of the United States ought not, if it be avoidable, so to be construed as to infract the common principles and usages of nations . . .."); *accord*, *MacLeod v. United States*, 229 U.S. 416, 434 (1913). This rule of construction is embodied in RESTATEMENT § 114: "Where fairly possible, a United States statute is to be construed so as not to conflict with international law or with an international agreement of the United States."

the world's nations. The internationally recognized "right to work" necessarily includes, at a minimum, the right of freedom to work – that is, the right to be free to seek and accept employment.

A. What the Right to Work Means in This Case

The right to work at issue in this case is not the right to a job, but rather the right to be free to seek and accept a job. It includes the right not to be prohibited by the government from obtaining employment. The INS regulation would violate that right by prohibiting aliens released on bond from working, absent special authorization. Article 23(1) of the *Universal Declaration of Human Rights* states: "Everyone has the right to work, to free choice of employment . . .."[11] The United States, which took a leading role in the promulgation of the human rights provisions under the United Nations Charter, explained its understanding of the right to work in a 1948 address to the United Nations Commission on Human Rights:

> In the opinion of the United States delegation, the right to work, in this Declaration, meant the right of the individual to benefit from conditions under which those who were able and willing to work should have the possibility of doing useful work . . .. The realization of those objectives meant more to individuals in the United States than any guarantee of full employment.[12]

[11] *Adopted* Dec. 10, 1948, G.A. Res. 217A(III), 3 U.N. GAOR (Resolutions Part 1) at 71, U.N. Doc. A/810 (1948), *reprinted in* 43 AM. J. INT'L. L. SUPP. 127 (1949). Forty-eight nations signed the Declaration.

[12] Remarks of Mrs. Eleanor Roosevelt, addressing the United Nations Commission on Human Rights, Commission on Human Rights, 3rd Session, U.N. Doc. E/CN.4/SR 64, p. 6.

The freedom to work represents a basic economic right. For the individual, it serves as the foundation for the exercise of other political and civil liberties in a modern society.[13]

B. The Right to Work is Protected Through the United Nations Charter and Embodied in Numerous International Agreements.

Articles 55 and 56 of the Charter of the United Nations, to which the United States is a party, state that "Members pledge themselves to take joint and separate action . . . for the achievement of the purposes set forth in Article 55," and that among these are "universal respect for, and observance of, human rights and fundamental freedoms."[14] The *Universal Declaration of Human Rights*, which the United States and 47 other nations joined in proclaiming in 1948, gives definition to Articles 55 and 56 of the Charter by identifying more precisely what the members of the United Nations consider those "human rights and fundamental freedoms" to be.[15] The *Universal*

[13] The right of freedom to work is a right "of the very essence . . . of personal freedom and opportunity." *Truax v. Raich*, 239 U.S. 33, 41 (1915). Justice Bradley referred to an analogous right as the "liberty of pursuit -- the right to follow any of the ordinary callings of life," a right he deemed "inalienable." *Butcher's Union Co. v. Crescent City Co.*, 111 U.S. 746, 762, 764 (1884) (Bradley, J., concurring).

[14] Although the commitment embodied in Article 55 of the Charter is phrased in the nature of a pledge, it has been pointed out that "the obligatory nature of the human rights clauses is today outside the realm of serious controversy." Schlüter, *The Domestic Status of the Human Rights Clauses of the United Nations Charter*, 61 CALIF. L. REV. 110, 126 (1973).

[15] The *Universal Declaration* is now considered by many as holding the authority of customary international law. "U.N. declarations are significant because they specify with great precision the obligations of member nations under the Charter." *Filartiga v. Pena-Irala*, 630 F.2d 876, 883 (2d Cir. 1980). *See also* RESTATEMENT § 103, Comment e (stating that a declaration of an international organization provides evidence of what states voting for it regard the law to be; such resolutions "if not contradicted and if adopted by

Declaration identifies the "right to work, to free choice of employment" as among those rights and freedoms.

The mandates of Articles 55 and 56 of the Charter were further clarified in 1966 with the adoption of the *International Covenant on Economic, Social and Cultural Rights*.[16] Article Six of the *Covenant* states that the parties "recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts," and that the parties "will take the appropriate steps to safeguard this right." As a member of the United Nations and a signatory to the *Covenant*, the United States should take the appropriate steps to safeguard the right to work. The Court, as a co-equal branch of government, has as great an obligation to "take the appropriate steps" as does either the executive or the legislative branch.[17]

Further evidence of the international consensus on the right to work as a fundamental norm of international law is found in several other agreements and declarations that have been entered into since the signing of the United Nations Charter. The *International Convention on the Elimination of All Forms of Racial Discrimination*, Article 5(e)(i), states that "[p]arties undertake to guarantee the right of everyone . . . to equality of

consensus or virtual unanimity, are given substantial weight" as evidence of international law). The *Universal Declaration of Human Rights* was adopted by a 48-0 vote in the General Assembly, with eight members abstaining.

[16] *Adopted* Dec. 16, 1966, *entered into force* Jan. 3, 1976, 993 U.N.T.S. 3. 93 nations have adopted the *Covenant*. The United States is a signatory, but has not yet ratified the *Covenant*.

[17] *See The Paquete Habana*, 175 U.S. 677, 700 (1900) (stating that courts must ascertain and administer international law). *See also* Schlüter, *supra* note 14, at 134: "Nothing in the nature of the international human rights obligations requires their execution exclusively by political organs . . . . On the contrary, the effective protection of human rights may be regarded as one of the traditional prerogatives of the national judiciary."

law in the enjoyment of . . . the right to work, to free choice of employment."[18] Likewise, the *Convention on the Elimination of All Forms of Discrimination Against Women*, Article 11(a), provides that "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on the basis of equality of men and women . . . the right to work as an inalienable right of all human beings."[19] The United States has signed, although not ratified, these two conventions.[20]

Regional international pacts also evince the universal recognition of the right to work. The *American Declaration of the Rights and Duties of Man*, Article 14, declares that "[e]very person has the right to work."[21] Similarly, the *Protocol of Amendment to the Charter of the O.A.S. (Protocol of Buenos Aires)*, to which the United States is a party, states in Article 43

[18] *Adopted* Dec. 21, 1965, *entered into force* Jan. 4, 1969, 660 U.N.T.S. 195. To date, 129 nations have become parties.

[19] *Adopted* Dec. 18, 1979, *entered into force* Sept. 3, 1981, G.A. Res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/36 (1980), *reprinted in* 19 I.L.M. 33 (1980). To date, 95 nations have become parties.

[20] Under the terms of the widely-accepted Vienna Convention on the Law of Treaties (to which, however, the United States is not a signatory), these facts alone would oblige the United States to recognize the right to work pending its possible ratification of the Conventions. The Vienna Convention provides that, after a state signs a treaty, but before it ratifies the treaty (or makes clear its intention not to do so), the "State is obliged to refrain from acts which would defeat the object and purpose of [the] treaty." Article 18, Vienna Convention on the Law of Treaties, *concluded* May 23, 1969, *entered into force* Jan. 27, 1980, 1155 U.N.T.S. 331.

[21] *Signed* May 2, 1948, O.A.S. Off. Rec. OEA/Ser.L/V/II. 23/Doc. 21/Rev. 6 (English 1979), *reprinted in* 43 AM. J. INT'L L. SUPP. 133 (1949). 21 nations, including the United States, joined in adopting the *Declaration*.

that "[w]ork is a right and a social duty."[22] The *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador)*, Article 6(1), declares that "[e]veryone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity."[23] Likewise, the *European Social Charter*, Part II, Article 1(2), states: "With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake . . . to protect effectively the right of the worker to earn his living in an occupation \freely entered upon."[24] Similar expression of the right is found in the *African [Banjul] Charter on Human and People's Rights*, Article 15, which states: "Every individual shall have the right to work under equitable and satisfactory conditions . . ."[25]

Through these instruments, protecting the right to work has become the stated commitment of more than 150 nations. Such protection is now part of the "general usage and practice of nations," from which customary international law is ascertained. As an element of customary international law, it has become part of the law of the United States. Recognition of the right to work in this case requires the Court to interpret the statutes at issue consistently with the international consensus recognizing

[22] *Opened for signature* Feb. 27, 1967, *entered into force* Feb. 27, 1970, 21 U.S.T. 607, T.I.A.S. No. 6847, O.A.S.T.S. No. 1-A. To date, 31 nations have become parties.

[23] *Opened for signature* Nov. 17, 1988, O.A.S.T.S. No. 69, *reprinted in* 28 *I.L.M.* 161 (1989). To date, 14 nations have become parties.

[24] *Opened for signature* Oct. 18, 1961, *entered into force* Feb. 26, 1965, 529 U.N.T.S. 89, Europ. T.S. No. 35. To date, 16 nations have become parties.

[25] *Adopted* June 27, 1981, *entered into force* Oct. 21, 1986, O.A.U. Doc. CAB/LEG/67/3/Rev. 5, (1981) *reprinted in* 21 *I.L.M.* 58 (1982). To date, 38 nations have become parties.

the right to work and thereby to uphold the court of appeals' decision.

C. The Right of Freedom to Work is Not Merely an Aspirational Principle, But a Human Rights Norm Capable of Immediate Realization.

Not all rights enumerated in international instruments are intended to create immediately enforceable norms of international law. Some declared "rights" are aspirational in tone; nations pledge to honor these rights to the best of their abilities, or to foster conditions that will make the exercise of the rights a practical reality. Examples of these rights are the right to an adequate standard of living and the right to social security.[26] Gradual implementation of these rights is the crux of the international obligation undertaken by states party to the relevant instruments. Accordingly, these rights may fall short of being considered binding norms of customary international law.

By contrast, the right of freedom to work does not represent a mere aspiration on the part of the world's nations; it can be achieved immediately. Protecting the right to work in this case means removing official obstacles to, and officially protecting, the freedom to seek and accept employment. Unlike some merely aspirational goals, it does not presuppose a particular level of national economic or social development. In the context of this case, the right to work represents a negative, not a positive, right; it simply requires that the United States refrain from barring aliens released on bond from obtaining employment.[27]

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[26] *See, for example, International Covenant on Economic, Social and Cultural Rights*, *supra* note 8, Article 9 (right to social security), Article 11 (right to adequate standard of living).

[27] *See* Wright, *National Courts and Human Rights -- The Fujii Case*, 45 AM. J. INT'L. L. 62, 72 (1951) (Article 56 of the United Nations Charter requires at a minimum that signatories *abstain* from action that would violate human rights and fundamental freedoms.)

D. The Right to Work is Not Foreign to American Law, But is Closely Related to the Constitutional Principle of Liberty to Choose an Occupation.

Although the right to work may be found in international accords, the concept of the right freely to choose and accept employment is also embedded in the constitutional fabric of American law, as a liberty interest protected by the Fifth and Fourteenth Amendments.[28] The Court declared early this century that "the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [Fourteenth] Amendment to secure." *Truax v. Raich*, 239 U.S. 33, 41 (1915) (striking down Arizona statute requiring all enterprises with more than five employees to hire 80 percent non-aliens).[29] Similarly, in overturning a schoolteacher's conviction for teaching the German language in violation of state law, the Court declared that "[w]ithout doubt, [the Fourteenth Amendment] denotes . . . the right of the individual . . . to engage in any of the common occupations of life." *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).[30] Even earlier, the Court recognized the deprivation of liberty that

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[28] Consequently, recognition of that right does not impose "the views of other nations" on Americans. *See Thompson v. Oklahoma*, 487 U.S. 815, 868 n.4 (1989) (Scalia, J., dissenting).

[29] Indeed, by barring aliens from working at all, the INS no-work condition is even more restrictive of an alien's right to seek employment than the Arizona statute declared unconstitutional in *Truax v. Raich*.

[30] *See also Board of Regents v. Roth*, 408 U.S. 564, 572 (1972) (quoting *Meyer v. Nebraska*); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 102 (1976) (stating that civil service regulation which resulted in "ineligibility for employment in a major sector of the economy" for noncitizens was "of sufficient significance to be characterized as a deprivation of an interest in liberty").

occurs when a person is barred from access to his livelihood. *Yick Wo v. Hopkins*, 118 U.S. 356 (1886) (overturning conviction under discriminatory scheme for regulating laundries).

So, while United States law has never recognized a general constitutional right to a particular job,[31] it has strongly supported the idea that denial of the right to work at all, or restriction of that right to so narrow a sphere that it has no practical meaning, is a serious infringement of an important fundamental freedom. Thus, the United States has demonstrated in its own constitutional law a "practice" of protecting the right to work that contributes to the universal practice supporting protection of that right in international law.

Viewed in this context, freedom to work, as embodied in customary international law, is familiar to, and entirely compatible with, United States law. The nations of the world, through multilateral international agreements, have recognized and codified this freedom and established it as a standard of international law.

III. THE IMMIGRATION STATUTES MUST BE CONSTRUED TO PROHIBIT ALIEN BOND "NO-WORK" CONDITIONS WHERE THOSE CONDITIONS ARE INCONSISTENT WITH THE RIGHT TO WORK.

The INS "no-work" condition on alien appearance and delivery bonds would deny the right to work to persons who are awaiting adjudication of their residence status by barring them from any form of employment. After release on bond, the alien awaiting deportation hearings would face the stark dilemma of trying to live during the interim without an income, or returning to detention. The coercive nature of this choice perverts the

[31] *Long Grove Country Club Estates v. Village of Long Grove*, 693 F. Supp. 640, 662 (N.D. Ill. 1988).

very purpose of a bond – which is premised on the idea that the person released is legally entitled to remain in the country until adjudicated otherwise – by tying the bond to the denial of a basic freedom.

Neither the Immigration and Nationality Act nor the Immigration Reform and Control Act conflicts on its face with the right to work. The conflict arises only with the *interpretation* given the Acts by the INS. The INS relies on these two statutes to support its authority to impose "no-work" conditions on alien bonds. Petitioner's Brief at 13, 19. However, neither statute offers such support. Of the two statutes, only the Immigration and Nationality Act discusses the Attorney General's discretion in issuing alien bonds. The Act does not affirmatively express a Congressional intent to authorize the Attorney General to deny a person's right to seek employment. The relevant section states only that a bond may contain "such conditions as the Attorney General may prescribe." 8 U.S.C. § 1252(a)(1). The language of the Act certainly does not evince a clear statement that Congress intended the Attorney General's authority to supersede existing standards of international law. In the absence of such manifest intent, therefore, the Court must conclude that Congress intended the exercise of the Attorney General's authority to be consistent with international law, including the internationally recognized right to work. Accordingly, under the principle established in *The Charming Betsy*, the Court must construe the Act as not authorizing the Attorney General to include "no-work" conditions in alien appearance and delivery bonds.

Nor can it be maintained that the INS "no-work" regulation itself represents a controlling executive act that supersedes the right to work as a statement of United States law. In a similar situation, the Court has invoked the rule of *The Charming Betsy* to overrule an executive decision by the National Labor Relations Board where that decision was inconsistent with international law. *McCulloch v. Sociedad Nacional de Marineros*

de Honduras, 372 U.S. 10 (1963) (overruling NLRB decision that it could regulate foreign flag ships). Likewise, in *Rodriguez-Fernandez v. Wilkinson*, 654 F.2d 1382 (10th Cir. 1981), the court referred to international law principles in holding that, despite the Attorney General's broad discretion in the area of immigration, the INS could not hold a refugee in indefinite detention. The court noted that "[i]t seems proper then to consider international law principles for notions of fairness as to [the] propriety of holding aliens in detention." *Id.* at 1388. Again, in *Coriolan v. I.N.S.*, 559 F.2d 993 (5th Cir. 1977), the court ordered reconsideration of an INS deportation order, noting that "[t]he sweep of [the Attorney General's] discretion, however, must now be measured in light of the United Nations Protocol Relating to the Status of Refugees." *Id.* at 996. Similarly, in this case, the sweep of the Attorney General's discretion in issuing conditions on alien appearance and delivery bonds must be measured in light of the international agreements embodying the right to work. In that light, the no-work condition cannot stand.

CONCLUSION

For the foregoing reasons, the International Human Rights Law Group respectfully urges the Court to affirm the decision of the court of appeals.

Respectfully submitted,

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